United Nations S/2004/769

Security Council

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29 September 2004
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Letter dated 27 September 2004 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

Further to my letters of 22 September 2004 (S/2004/751), 27 September 2004 (S/2004/762) and 27 September 2004 (S/2004/767), the Ndjamena Ceasefire Agreement, as you are aware, calls for the specification of the locations of the rebels and requires the two parties to notify the Ceasefire Commission in advance of the movements of their forces in order to enable the Commission to observe compliance with the ceasefire and facilitate the process of placing the rebel forces in camps with a view to their disarmament.

By way of confirmation of our repeated admonitions to the Security Council regarding the consequences of wrong messages, I regret to inform you that the rebels have continued until now to refuse to specify their positions; rather, they have recently begun to act as they please in open contempt of the international community. In the past few days, in fact, the rebels have carried out a number of military operations against villages and towns.

The operations have targeted not only civilians but also police forces deployed by the Government in Darfur pursuant to Security Council resolution 1556 (2004), the commitments contained in the joint communiqué with the Secretary-General and the Darfur action plan. What is even more serious is that rebel operations have expanded to include areas outside Darfur that are not covered by the Ndjamena Ceasefire Agreement, as in the case of the village of Ghubaysh in West Kordofan state. That operation resulted in dozens of civilian deaths, bank robberies and the destruction of local institutions.

Despite the Government's commitment to the ceasefire and the fact that it is marked by the utmost self-control with regard to the rebels' provocations and constant violations of the ceasefire, the Government's responsibilities require it to perform its duties of protecting civilians, maintaining law and order and protecting the police forces deployed in the region under an agreement with the United Nations and in compliance with the Security Council resolutions.

I should be grateful if you would have this letter circulated as a document of the Security Council.

(*Signed*) Elfatih **Erwa**
Permanent Representative

04-52691 (E) 290904 290904

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Note by the President of the Security Council

1. Following consultations among the members of the Security Council and further to the note by the President of the Security Council dated 11 June 2004 (S/2004/472), the members of the Council agreed to elect two additional vice-chairmen of the Security Council Committee established pursuant to resolution 1540 (2004):

Benin
United Kingdom of Great Britain and Northern Ireland

2. The composition of the Bureau of the Security Council Committee established pursuant to resolution 1540 (2004) is thus as follows for the term ending on 31 December 2004:

Chairman:
Mihnea Ioan Motoc (Romania)

Vice-Chairmen:
Benin
Philippines
United Kingdom of Great Britain and Northern Ireland

04-53076 (E) 011004

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Report of the Secretary-General on the United Nations Observer Mission in Bougainville (Papua New Guinea)

I. Introduction

1. The present report is submitted pursuant to the letter dated 30 June 2004 from the President of the Security Council to the Secretary-General (S/2004/527), in which the Council, inter alia, endorsed the final extension, until 31 December 2004, of the mandate of the United Nations Observer Mission in Bougainville (UNOMB) and requested the Secretariat to present a report to the Council on "an assessment of the ground situation and on a mission closure-plan". The present report reviews the progress achieved by the parties to the Bougainville Peace Agreement since the last briefing to the Council on 28 June 2004 on weapons disposal, the development of a constitution for an autonomous Bougainville government, preparations for elections and the plan for the closing of the Mission.

II. Assessment of the situation

A. Weapons disposal

2. At the last briefing to the Security Council on 28 June 2004, the Council was informed that Bougainville ex-combatants had destroyed 85 per cent of the contained weapons. As at the present date, that figure has reached a total of 1,841 weapons, or 92.6 per cent of the total amount. It is especially encouraging to note that significant progress has been achieved in the fragile southern districts of Siwai and Buin. In addition, 56 weapons not previously contained have been handed over to UNOMB and subsequently destroyed. The weapons disposal plan has been completed in 7 of the 10 districts of the Province.

3. Progress was possible, thanks to intensified awareness among the population and to the reconciliation ceremonies undertaken by the Bougainville leaders, with the assistance of UNOMB, throughout the targeted areas. Another contributing factor to weapons disposal in the south of the Province has been the progress made in the constitutional process. The United Nations Observer Mission is working very closely with the parties on the expeditious completion of the weapons disposal plan in the remaining districts. At the same time, the Mission is spreading its weapons awareness campaign to the adjacent "No-Go-Zone" not covered by the weapons

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disposal plan, encouraging former combatants and other individuals in the area to turn in their weapons.

B. Law and order

4. Steady progress in weapons disposal continues to contribute to improved level of law and order throughout the Province. Policing has been strengthened with the deployment of 50 Bougainvillean police, who have recently completed their training, and the recruitment of a further 50 police who are currently attending the Police Training College at Bomana, outside Port Moresby. The latter are expected to graduate by the end of 2004. Australian Federal Police (AFP), who deployed to Bougainville in early September and who have started to work side by side with the Bougainvillean police, report to the respective Bougainville police commanders. Judging by the reception on the ground, members of AFP are being well received by the local communities. In addition, more than 400 community auxiliary police are at work or undergoing retraining in Bougainville. Community policing is being facilitated by New Zealand. Progress is also being made in improving access to courts and upgrading the correctional services. All these developments bode well for enhancing the trust of the public in the peace process and creating conditions conducive to the holding of elections.

C. Constitution making

5. The Bougainville Constitutional Commission submitted the third draft of the constitution to the Bougainville Constituent Assembly on 1 September 2004. The draft incorporated the comments previously provided by the Government of Papua New Guinea. Following two weeks of deliberations, the Constituent Assembly introduced some amendments to the draft, which resulted in a fourth draft of the constitution. The report of the Constitutional Commission and the third and fourth drafts of the proposed constitution were submitted to the national Government in mid-September. The Government expects that consultations between the bipartisan National Committee and the Constituent Assembly will be undertaken in the coming weeks.

6. To ensure that the Bougainville constitution complies with the constitution of Papua New Guinea, the amendments to the fourth draft will have to be reviewed by the Office of the Attorney-General. The Government has expressed its concern over a number of public policy issues, including the affordability of the proposed system of government. It has nevertheless acknowledged that, while the Bougainville constitution must be consistent with the constitution of Papua New Guinea, public policy issues are a matter for consultation. If such issues do not violate the constitution of Papua New Guinea, they will be essentially for the Bougainville leaders to decide. Since differences over earlier drafts of the Bougainville constitution have been resolved, or otherwise narrowed, both parties are hopeful about the outcome of the forthcoming consultations and the final review of the Bougainville constitution by the National Executive Council (cabinet).

7. While waiting for the completion of the constitutional process, the cabinet has taken action to identify and secure sufficient funds to cover the costs of the elections. These funds are complemented by contributions from Australia, New

Zealand and the Bougainville Interim Provincial Administration to the Governance and Implementation Fund. The Chief Electoral Commissioner of Papua New Guinea recently visited Bougainville to assess technical and other electoral needs, drawing up a programme of work in close consultation with officials on the ground. In the coming weeks, the Commissioner will be sending officials to the island to start updating the electoral rolls and to undertake other preparatory work. Public consultations on the boundaries of electoral districts for the future Bougainville Parliament are expected to begin in the first week of January 2005.

D. Development and humanitarian assistance

8. Together with United Nations agencies and programmes, the donor community is working closely with the Bougainville provincial administration to lay a solid economic foundation for the future government. In the coming phase of United Nations Development Programme (UNDP) activity in Bougainville, the focus will be on assisting the provincial administration in capacity-building through the development of effective planning and management skills, the provision of support for the consolidation of the peace process through leadership, human rights advocacy and other social activities and the strengthening of economic development and livelihood opportunities. UNDP also plans to strengthen its presence in Bougainville by establishing offices in Buka as well as in central and south Bougainville. The United Nations Children's Fund (UNICEF) continues to facilitate educational services and to provide school materials for the "No-Go-Zone". In October 2004, the Fund will start teacher training in 20 selected schools in the zone. In addition, it is in the process of recruiting a child protection officer.

9. The goal of donor assistance to the island is to help the Province and the national Government to create a self-reliant, autonomous Bougainville government. To this end, a work plan has been prepared jointly by the national Government and the Bougainville Interim Provincial Administration. It is going to be financed through the Governance and Implementation Fund. The provision of resources from the Fund will be contingent on performance and commitment of each party. The medium-term priorities for the Governance and Implementation Fund will be to transfer essential powers from the national Government to the Bougainville administration, to prepare and hold elections for an autonomous government and to reform the Bougainville public sector. In addition, in the light of the improved level of law and order, the Ambassador of Japan to Papua New Guinea intends to recommend an expansion of the Japanese volunteer programme to Bougainville.

III. Mission-closure plan

10. In accordance with the request of the Security Council, UNOMB has drawn up a Mission liquidation plan. The Mission has made a complete inventory of its assets, including recommendations on how they should be liquidated, and has submitted it to Headquarters. Pursuant to the instructions from Headquarters, some of the assets will be donated, others auctioned or shipped to different United Nations locations. The process of liquidation will take an estimated six to eight weeks after the expiration of the mandate of the Mission. The process can be initiated as soon as UNOMB is instructed to implement the plan.

IV. Observations

11. In view of the present situation in the Province, it would seem that the target date for the holding of elections by the end of 2004 is not going to be met, in spite of continuing solid progress in all three areas constituting the major landmarks of the peace process: weapons disposal; constitution making; and preparations for elections. Both the Government of Papua New Guinea and the Bougainville leaders remain firm in their commitment to complete the process as soon as possible.

12. The transition to autonomy involves a number of interdependent aspects, one step leading to another. Once consultations on the third and fourth drafts of the Bougainville constitution are completed, a firm date for elections may be set. While UNOMB's mandate does not include electoral assistance, the United Nations stands ready to provide assistance in this area if the Government so desires and if a timely request is received.

13. In my letter to the President of the Security Council of 19 December 2003 requesting an extension of the UNOMB mandate and specifying its functions (S/2003/1198), I indicated that the logical conclusion of the process is the establishment of an autonomous government. A copy of an aide-memoire, dated 17 September 2004, from the Government of Papua New Guinea on the role of UNOMB and its remaining responsibilities is attached (see annex I).

14. In the coming months, and until an autonomous government is established in Bougainville, UNOMB will continue to be required to chair the Peace Process Consultative Committee to enable the parties to the Peace Agreement to consult on the peace process in general, and on the preparations for elections, in particular. The Peace Process Consultative Committee is the only mechanism available for communication and consultation between the Government of Papua New Guinea and the Bougainville Revolutionary Army and the Bougainville Resistance Force.

15. Under its current mandate, and if requested by any of the parties, UNOMB has to verify and certify substantial compliance by the parties in the handing over of weapons and to ascertain whether the level of security is conducive to the holding of elections. For verification and certification to be credible, the United Nations should be physically on the ground. Bearing in mind the presence on the island of weapons that have not been surrendered or contained, as well as weapons in the "No-Go-Zone", UNOMB should continue to monitor and report to the Peace Process Consultative Committee on this matter in the period leading up to elections.

16. UNOMB has gained the full trust and confidence of all the parties, as well as that of a significant segment of the population in the "No-Go-Zone" in implementing the mandate entrusted to it under the Peace Agreement. There is concern that a premature closure of the Observer Mission could have a negative impact on the peace process as it enters the critical months ahead.

17. The national Government and the Bougainville leaders are fully aware of the concerns expressed by the Security Council regarding an open-ended nature of UNOMB's mandate. The Mission will continue to support their efforts to move the peace process forward in the remaining period of its current mandate. Hopefully, when the Council considers this matter later this year, the parties will be in a position to provide it with a firm date for the holding of elections for the establishment of an autonomous government in Bougainville.

Annex

Aide-memoire on the role of the United Nations Observer Mission in Bougainville, Papua New Guinea (UNOMB), in implementation of the Bougainville Peace Agreement within the framework of the Papua New Guinea Constitution (17 September 2004)

Introduction

1. Papua New Guinea has the honour of respectfully drawing attention to the contribution that UNOMB makes to implementation of the *Bougainville Peace Agreement*, with particular regard to UNOMB's role under the *Constitution of the Independent State of Papua New Guinea* ('*Papua New Guinea Constitution*').

UNOMB's mandate

2. The mandate for UNOMB is specified in the letter of 19 December 2003 from the distinguished United Nations Secretary-General, H. E. Kofi Annan, to the President of the United Nations Security Council (S/2003/1198), and confirmed in the letter of response, dated 23 December 2003, from the President, H E. Stefan Tafrov (Bulgaria) (S/2003/1199), on behalf of the United Nations Security Council. It is to:

'(a) Chair the Peace Process Consultative Committee, which will consult with the parties on the peace process in general, and make preparations for elections, in particular;

(b) Report on the security and the subsequent destruction of the contained weapons;

(c) Monitor the constitutional process leading to the adoption of the Bougainville Constitution;

(d) In accordance with the amended Constitution of Papua New Guinea, and if requested by any of the parties, verify and certify substantial compliance by the parties in the handing in of weapons and whether the level of security is conducive to the holding of elections;

(e) Perform other good offices, as appropriate, or when requested to do so by the parties.'

3. This mandate follows on directly from the Statement by the then-President, H. E. Hisashi Owada (Japan), made on behalf of the United Nations Security Council on 22 April 1998 (S/PRST/1998/10), in which the Security Council welcomed both the *Lincoln* and *Ceasefire Agreements*, including the provisions they contain for a United Nations observer mission in Bougainville.

4. The importance that all of the parties attach to the role which UNOMB plays in the Bougainville peace process can be seen both:

- in the agreed weapons disposal plan which forms part of the *Bougainville Peace Agreement* (Part E) [see enclosure]; and

- in the way that relevant provisions have been given the force of law in the *Papua New Guinea Constitution* s 279 (2).

5. The United Nations Security Council has previously acknowledged both sets of provisions, and the way they have been integrated, in, among other documents:

- a Press Release (SC/7491) issued by the President, H. E. John Negroponte (United States), on 29 August 2002, in which the Security Council –

> 'Recalled that the Bougainville Peace Agreement ... has three pillars: autonomy, a referendum and a weapons disposal plan;' and
>
> 'Encouraged the parties to work together to implement these provisions as soon as possible in order to achieve a definitive settlement of the conflict....'; and

a Press Release (SC/7238) issued by the President, H. E. Moctar Ouane (Mali) on 13 December 2003, which stated that –

> 'Members of the Security Council value the efforts made by the Government of Papua New Guinea to integrate into its Constitution the amendments resulting from the [Bougainville] Peace Agreement and ... recalled the important role played by the United Nations Political Office in Bougainville and underlined the need for continuation of its activities. They also recalled that its mandate now includes the area of weapons collection and disposal ....

UNOMB's remaining responsibilities

6. In addition to helping to build mutual confidence and promote co-operation between the parties, UNOMB has several specific responsibilities under its agreed mandate. These responsibilities include:

(1) chairing the Peace Process Consultative Committee (PPCC), the main body through which the parties co-operate in managing, advancing and resolving such difficulties as may arise in implementing the agreed weapons disposal plan, and maintaining and strengthening peace on the ground;

Notes: (i) the PPCC is the agreed mechanism

for consultation between the parties in relation to weapons disposal and other aspects of the Bougainville peace process; it is, in fact, the only mechanism for regular communication between the National Government and the main former combatant groups, the Bougainville Revolutionary Army (BRA) and the Bougainville Resistance Forces (BRF).

(ii) the Interim Joint Supervisory Body (IJSB), which has, by agreement, been set up on an interim basis, even before the autonomous Bougainville Government has been established, is a forum for consultation between the National Government and Bougainville political leaders over the transition to autonomy.

(iii) when the autonomous Bougainville Government has been elected, it will be the legitimate representative of Bougainville; it will consult and seek to resolve such differences as might arise with the National Government through the joint supervisory body, which will then be set up as the *Bougainville Peace Agreement* and the implementing provisions in the *Papua New Guinea Constitution* provide.

(iv) it is accordingly critical that the PPCC continues until the autonomous Bougainville Government has been elected.

(2) promoting implementation of the agreed weapons disposal plan, supervising and holding one of the keys to the double-locked container in which weapons are held at stage 2, facilitating the destruction of weapons at stage 3, and receiving and considering any report by UNOMB made under (3);

Note: (i) this function will be fulfilled when implementation of the agreed weapons disposal plan is completed and elections for the autonomous Bougainville Government are called; the latest report is that 90% of the weapons previously contained have now been destroyed.

(ii) however, it is obvious from the way in which verification and certification at stage 2 were based on community consultations, and from the continued presence of armed personnel in and around the remaining 'No-Go Zone' at Panguna, as well as armed criminal elements elsewhere, that the agreed weapons disposal plan contained in the *Bougainville Peace Agreement* does not cover all of the guns in Bougainville.

(iii) it is accordingly important that UNOMB continue to be available until the elections for the autonomous Bougainville Government are held - in order to respond to a request from any of the parties to determine whether conditions are conducive to holding the elections, or whether they should be deferred, as provided in (3).

(3) responding to a request by any of the parties 'to verify and certify whether there has been substantial compliance in the handing in of weapons and whether the level of security of the weapons makes it conducive to holding the elections' – and recommending whether the elections for the autonomous Bougainville Government should be deferred, and, if so, for how long.

Notes: (i) UNOMB performs this function in response to a request.

(ii) the Bougainville parties have undertaken to be bound by UNOMB's findings.

(iii) it is accordingly important that UNOMB continues to monitor the situation on the ground, and remains available to carry out this potentially critical function until the elections are held.

7. As the above makes clear, UNOMB will be needed until the autonomous Bougainville Government is elected; all of its agreed functions will then be fulfilled.

UNOMB and the *Papua New Guinea Constitution*

8. UNOMB's role in relation to practical weapons disposal is set out in the agreed weapons disposal plan contained in the *Bougainville Peace Agreement*, Part E.

9. Its role in relation to determining any differences over whether conditions are conducive for holding elections has been given the force of constitutional law in the *Papua New Guinea Constitution* s279 (2).

10. The relevant provision giving the force of constitutional law to this role, which the United Nations Security Council has previously

acknowledged and commended, as recorded in Paragraph 5 above, reads as follows:

> '279. AUTONOMOUS GOVERNMENT FOR BOUGAINVILLE
>
> ...
>
> (2) Elections to the Bougainville Legislature may be held only –
>
> (a) in accordance with an agreement reached in accordance with Paragraph 8 (a) of the weapons disposal plan contained in the [Bougainville Peace] Agreement; or
>
> (b) on verification and certification by the Director of the United Nations Observer Mission in Bougainville, of substantial compliance with, and generally in accordance with Paragraph 8(b) of, the weapons disposal plan according to the [Bougainville Peace] Agreement.'
>
> Note: Paragraph 8 of the agreed weapons disposal plan is summarized in Paragraph 6 above; the original text of relevant sections in this and other sections of the plan are annexed for information.

Conclusion

11. The provision recognizing UNOMB's role in the *Papua New Guinea Constitution* is probably unique in the world.

12. Papua New Guinea has a proud and unbroken record of upholding the principles of constitutional democracy since independence in 1975.

13. Respect for the principles of good governance and the *Constitution of Papua New Guinea*, together with the credibility of the Bougainville peace process and the United Nations, make it important that UNOMB remains, fulfils its agreed role, and then withdraws when its

mandate is complete (without leaving a gap in the *Papua New Guinea Constitution*).

14. It is clear from the above that UNOMB's role will be fulfilled when the autonomous Bougainville Government has been elected; this will be as soon as relevant provisions of the Bougainville constitution providing for the first elections have been finalized, adopted and endorsed as consistent with the *Papua New Guinea Constitution*, and implemented through an orderly process which moves seamlessly from finalising updated electoral rolls, drawing and approval of electoral boundaries, calling for nominations, printing and distributing ballot-papers, and collecting and counting votes, to the swearing-in of the head of the executive and the legislature of the autonomous Bougainville Government.

15. It is clear from the above that it is critical that UNOMB continues until its agreed mandate is fulfilled, which will be when the autonomous Bougainville Government is elected; this is its natural exit date.

Enclosure

Bougainville Peace Agreement

Part E. Weapons disposal

8. (b) In any event, any of the parties may call on the UNOMB with the assistance of the PMG [Peace Monitoring Group, now withdrawn] to verify and certify whether there has been substantial compliance by the parties in the handing in of weapons and whether the level of security of the weapons makes it conducive to holding the elections.

(c) UNOMB's report will be presented to, and considered by, the PPCC.

(d) The Bougainville parties will be bound by UNOMB's findings on whether or not the first election for the autonomous Bougainville Government will be deferred, and the length of any deferral.

...

9. (b) The parties will co-operate with each other and UNOMB to ensure that UNOMB can carry out its responsibilities under this Resolution efficiently and effectively.

...

11. The National Government will seek the agreement of the United Nations Security Council for UNOMB to carry out the responsibilities specified in this Resolution.

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Letter dated 28 September 2004 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

Referring to my letter of 27 September 2004 (S/2004/769), regarding the ceasefire violations by the rebels in Darfur, I have the honour to bring to your attention the following new violations of the ceasefire agreement:

1. On 26 September 2004, about 300 rebels, using eight landcruiser pick-up cars, raided the town of Abu Karinka. They killed 13 civilians and policemen, looted the premises of the Zakat Chamber and the water station and captured two trucks, one 120 millimetre gun and one B-10 gun.

2. On 26 September 2004, a group of Darfur rebels attacked a camp of Arab nomads, north of Nyala, captured a herd of camels (around 100), killed the owner of the herd and injured one person.

3. On 27 September 2004, the rebels attacked the village of Manawashi, on the main road between Alfasher and Nyala and injured four policemen.

4. On 28 September 2004, a police force, dispatched to evacuate the victims of the attack on Manawashi, was ambushed by the rebels in the area between Manawashi and Dumma.

I would appreciate if you could kindly circulate the present letter as a document of the Security Council.

(*Signed*) Elfatih **Erwa**
Permanent Representative

04-52837 (E) 011004